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13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15

16  
17 **Scott Johnson**

18 Plaintiff,

19 v.

20 **Spice Route, LLC**, a California  
21 Limited Liability Company

22 Defendant

23  
24 **Case No.**

25 **Complaint For Damages And  
26 Injunctive Relief For Violations  
27 Of: Americans With Disabilities  
28 Act; Unruh Civil Rights Act**

17 Plaintiff Scott Johnson complains of Spice Route, LLC, a California  
18 Limited Liability Company; and alleges as follows:

19  
20 **PARTIES:**

21 1. Plaintiff is a California resident with physical disabilities. Plaintiff is a  
22 level C-5 quadriplegic. He cannot walk and has significant manual dexterity  
23 impairments. He uses a wheelchair for mobility and has a specially equipped  
24 van.  
25  
26 2. Defendant Spice Route, LLC owned Saravanaa Bhavan located at or  
27 about 1305 S Mary Ave, Sunnyvale, California, in July 2021.  
28  
29 3. Defendant Spice Route, LLC owns Saravanaa Bhavan located at or

1 about 1305 S Mary Ave, Sunnyvale, California, currently.

2       4. Plaintiff does not know the true names of Defendants, their business  
3 capacities, their ownership connection to the property and business, or their  
4 relative responsibilities in causing the access violations herein complained of,  
5 and alleges a joint venture and common enterprise by all such Defendants.  
6 Plaintiff is informed and believes that each of the Defendants herein is  
7 responsible in some capacity for the events herein alleged, or is a necessary  
8 party for obtaining appropriate relief. Plaintiff will seek leave to amend when  
9 the true names, capacities, connections, and responsibilities of the Defendants  
10 are ascertained.

11

12           **JURISDICTION & VENUE:**

13       5. The Court has subject matter jurisdiction over the action pursuant to 28  
14 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
15 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

16       6. Pursuant to supplemental jurisdiction, an attendant and related cause  
17 of action, arising from the same nucleus of operative facts and arising out of  
18 the same transactions, is also brought under California's Unruh Civil Rights  
19 Act, which act expressly incorporates the Americans with Disabilities Act.

20       7. Venue is proper in this court pursuant to 28 U.S.C. § 1331(b) and is  
21 founded on the fact that the real property which is the subject of this action is  
22 located in this district and that Plaintiff's cause of action arose in this district.

23

24           **FACTUAL ALLEGATIONS:**

25       8. Plaintiff went to Saravanaa Bhavan in July 2021 with the intention to  
26 avail himself of its goods or services motivated in part to determine if the  
27 defendants comply with the disability access laws.

28       9. Saravanaa Bhavan is a facility open to the public, a place of public

1 accommodation, and a business establishment.

2 10. Unfortunately, on the date of the plaintiff's visit, the defendants failed  
3 to provide accessible entrance door hardware and paths of travel in  
4 conformance with the ADA Standards as it relates to users like the plaintiff.

5 11. Saravanaa Bhavan provides door hardware and paths of travel to its  
6 customers but fails to provide accessible door hardware.

7 12. Two problems that plaintiff encountered was that the entrance door  
8 handles had loop and thumb handles that required tight grasping to operate.  
9 What is more, the landing at the entrance, where there is an ADA sticker, is not  
10 level.

11 13. Plaintiff believes that there are other features of the door hardware and  
12 paths of travel that likely fail to comply with the ADA Standards and seeks to  
13 have fully compliant door hardware and paths of travel.

14 14. On information and belief, the defendants currently fail to provide  
15 accessible door hardware and paths of travel.

16 15. Additionally, on the date of the plaintiff's visit, the defendants failed to  
17 provide wheelchair accessible parking in conformance with the ADA  
18 Standards as it relates to wheelchair users like the plaintiff.

19 16. Saravanaa Bhavan provides parking to its customers but fails to provide  
20 wheelchair accessible parking.

21 17. A couple of problems that plaintiff encountered was the parking stalls  
22 and access aisles marked and reserved for persons with disabilities had slopes  
23 that exceeded 2.1%. What is more, there were not enough parking spaces for  
24 wheelchair users in the parking lot. There were approximately 100 parking  
25 spaces in the parking lot but only 3 stalls were reserved for persons with  
26 disabilities. There should have been 4 parking spaces marked and reserved for  
27 persons with disabilities.

28 18. Plaintiff believes that there are other features of the parking that likely

1 fail to comply with the ADA Standards and seeks to have fully compliant  
2 parking for wheelchair users.

3 19. On information and belief, the defendants currently fail to provide  
4 wheelchair accessible parking.

5 20. The failure to provide accessible facilities created difficulty and  
6 discomfort for the Plaintiff.

7 21. These barriers relate to and impact the plaintiff's disability. Plaintiff  
8 personally encountered these barriers.

9 22. As a wheelchair user, the plaintiff benefits from and is entitled to use  
10 wheelchair accessible facilities. By failing to provide accessible facilities, the  
11 defendants denied the plaintiff full and equal access.

12 23. The defendants have failed to maintain in working and useable  
13 conditions those features required to provide ready access to persons with  
14 disabilities.

15 24. The barriers identified above are easily removed without much  
16 difficulty or expense. They are the types of barriers identified by the  
17 Department of Justice as presumably readily achievable to remove and, in fact,  
18 these barriers are readily achievable to remove. Moreover, there are numerous  
19 alternative accommodations that could be made to provide a greater level of  
20 access if complete removal were not achievable.

21 25. Plaintiff will return to Saravanaa Bhavan to avail himself of its goods or  
22 services and to determine compliance with the disability access laws once it is  
23 represented to him that Saravanaa Bhavan and its facilities are accessible.  
24 Plaintiff is currently deterred from doing so because of his knowledge of the  
25 existing barriers and his uncertainty about the existence of yet other barriers  
26 on the site. If the barriers are not removed, the plaintiff will face unlawful and  
27 discriminatory barriers again.

28 26. Given the obvious and blatant nature of the barriers and violations

1 alleged herein, the plaintiff alleges, on information and belief, that there are  
 2 other violations and barriers on the site that relate to his disability. Plaintiff will  
 3 amend the complaint, to provide proper notice regarding the scope of this  
 4 lawsuit, once he conducts a site inspection. However, please be on notice that  
 5 the plaintiff seeks to have all barriers related to his disability remedied. See  
 6 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff  
 7 encounters one barrier at a site, he can sue to have all barriers that relate to his  
 8 disability removed regardless of whether he personally encountered them).

9

**10 I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS  
 11 WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
 12 Defendants.) (42 U.S.C. section 12101, et seq.)

13 27. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
 14 again herein, the allegations contained in all prior paragraphs of this  
 15 complaint.

16 28. Under the ADA, it is an act of discrimination to fail to ensure that the  
 17 privileges, advantages, accommodations, facilities, goods and services of any  
 18 place of public accommodation is offered on a full and equal basis by anyone  
 19 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.  
 20 § 12182(a). Discrimination is defined, *inter alia*, as follows:

- 21       a. A failure to make reasonable modifications in policies, practices,  
        22           or procedures, when such modifications are necessary to afford  
        23           goods, services, facilities, privileges, advantages, or  
        24           accommodations to individuals with disabilities, unless the  
        25           accommodation would work a fundamental alteration of those  
        26           services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 27       b. A failure to remove architectural barriers where such removal is  
        28           readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are

1 defined by reference to the ADA Standards.

2 c. A failure to make alterations in such a manner that, to the  
3 maximum extent feasible, the altered portions of the facility are  
4 readily accessible to and usable by individuals with disabilities,  
5 including individuals who use wheelchairs or to ensure that, to the  
6 maximum extent feasible, the path of travel to the altered area and  
7 the bathrooms, telephones, and drinking fountains serving the  
8 altered area, are readily accessible to and usable by individuals  
9 with disabilities. 42 U.S.C. § 12183(a)(2).

10 29. When a business provides door hardware, it must provide accessible  
11 door hardware.

12 30. Here, accessible door hardware has not been provided in conformance  
13 with the ADA Standards.

14 31. When a business provides paths of travel, it must provide accessible  
15 paths of travel.

16 32. Here, accessible paths of travel have not been provided in conformance  
17 with the ADA Standards.

18 33. When a business provides parking, it must provide accessible parking.

19 34. Here, accessible parking has not been provided in conformance with the  
20 ADA Standards.

21 35. The Safe Harbor provisions of the 2010 Standards are not applicable  
22 here because the conditions challenged in this lawsuit do not comply with the  
23 1991 Standards.

24 36. A public accommodation must maintain in operable working condition  
25 those features of its facilities and equipment that are required to be readily  
26 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

27 37. Here, the failure to ensure that the accessible facilities were available  
28 and ready to be used by the plaintiff is a violation of the law.

1           **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL  
2           RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
3           Code § 51-53.)

4           38. Plaintiff repleads and incorporates by reference, as if fully set forth  
5           again herein, the allegations contained in all prior paragraphs of this  
6           complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
7           that persons with disabilities are entitled to full and equal accommodations,  
8           advantages, facilities, privileges, or services in all business establishment of  
9           every kind whatsoever within the jurisdiction of the State of California. Cal.  
10          Civ. Code §51(b).

11          39. The Unruh Act provides that a violation of the ADA is a violation of the  
12          Unruh Act. Cal. Civ. Code, § 51(f).

13          40. Defendants’ acts and omissions, as herein alleged, have violated the  
14          Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff’s  
15          rights to full and equal use of the accommodations, advantages, facilities,  
16          privileges, or services offered.

17          41. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
18          discomfort or embarrassment for the plaintiff, the defendants are also each  
19          responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
20          (c).)

21          42. Although the plaintiff encountered frustration and difficulty by facing  
22          discriminatory barriers, even manifesting itself with minor and fleeting  
23          physical symptoms, the plaintiff does not value this very modest physical  
24          personal injury greater than the amount of the statutory damages.

25  
26           **PRAYER:**

27          Wherefore, Plaintiff prays that this Court award damages and provide  
28          relief as follows:

1       1. For injunctive relief, compelling Defendants to comply with the  
2 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
3 plaintiff is not invoking section 55 of the California Civil Code and is not  
4 seeking injunctive relief under the Disabled Persons Act at all.

5       2. For equitable nominal damages for violation of the ADA. See  
6 *Uzuegbunam v. Preczewski*, --- U.S. ---, 2021 WL 850106 (U.S. Mar. 8, 2021)  
7 and any other equitable relief the Court sees fit to grant.

8       3. Damages under the Unruh Civil Rights Act, which provides for actual  
9 damages and a statutory minimum of \$4,000 for each offense.

10      4. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
11 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

13 Dated: October 19, 2021

CENTER FOR DISABILITY ACCESS

15 By: \_\_\_\_\_  
16

17 Amanda Seabock, Esq.  
Attorney for plaintiff